

BRENT M. RESH
(Nevada Bar No. 14940)
BRENT RESH LAW, PLLC
2401 La Solana Way
Las Vegas, NV 89102
(702) 781-6903
brent@brentreshlaw.com

JESSICA L. BLOME
(Cal. Bar No. 314898, pro hac vice)
J. RAE LOVKO
(Cal. Bar No. 208855, pro hac vice)
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
(510) 900-9502
jblome@greenfirelaw.com
rlovko@greenfirelaw.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LAURA LEIGH, individually, and WILD
HORSE EDUCATION, a non-profit
corporation,

Plaintiffs,

v.

INTERIOR BOARD OF LAND APPEALS,
UNITED STATES DEPARTMENT OF
INTERIOR, BUREAU OF LAND
MANAGEMENT, and KG MINING INC.,

Defendants.

Case No. 3:25-cv-00039-ART-CSD

**PLAINTIFFS' REPLY TO
DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION FOR JUDICIAL
NOTICE**

Defendants' Response to Plaintiffs' Motion for Judicial Notice only objects to this Court taking notice of the following three documents, arguing that Plaintiffs waived their right to judicially notice documents, and the documents are impermissible extra-record evidence.:

- An eight-page excerpt from the Antelope and Triple B Complexes Gather Plan (2017), which is Exhibit A to Plaintiffs' Request;
- A two-page excerpt from BLM's Wild Horses and Burros Management Handbook H-4700-1 (2010), which is Exhibit D to Plaintiffs' Request; and
- BLM's announcement for the FY2022 Triple B Complex Wild Horse Gather (July 11, 2022), which is Exhibit E to Plaintiffs' Request.

ECF 46, pp. 1-2.

Plaintiffs agree these documents are not part of the administrative record – nor should they be.¹ An administrative record consists of all documents and materials directly or indirectly considered by the at-issue agency in making the decision in question. *Goffney v. Becerra*, 995 F.3d 737, 747 (9th Cir. 2021). The Court may consider them as extra-record evidence because they are offered to provide clarification and explain technical terms. *Safari Club Int'l v. Haaland*, 31 F.4th 1157, 1177 (9th Cir. 2022); *WildWest Inst. v. Bull*, 547 F.3d 1162, 1176 (9th Cir. 2008).

Exhibit A is cited twice in Plaintiffs' Motion for Summary Judgment to clarify the herd management areas and wild horse territory located within the Triple B Complex. ECF 43, pp. 10, 20. The administrative record was not entirely clear on this, with the IBLA stating it consists of the Triple B, Maverick-Medicine, and Antelope Valley HMAs. AR_257. Exhibit A simply clarifies that the Antelope Valley HMA actually is located within the Antelope Complex, and the Antelope Valley West of US Highway 93 is located within the Triple B Complex, and further, the Triple B Complex also contains a wild horse territory. ECF 44-3, pp. 3-4.

Exhibit D is cited twice in Plaintiffs' Motion for Summary Judgment for the sole purpose of providing this Court with BLM's definition of AML (appropriate management level) and

¹ Defendants reference the Court's July 1, 2025 order, which adopted the parties' joint proposed scheduling order, arguing that the failure to ask for these documents in the administrative record results in a waiver to ask for them through judicial notice. ECF 39-40. The Court's order addressed deadlines for compiling the administrative record only; it did not contain any provisions regarding judicially noticed documents. The omission regarding judicially noticed documents was purposeful as not all appropriate extra-record documents can be known prior to briefing. In the parties' joint proposed scheduling order, BLM originally included judicially noticed documents, but the Plaintiffs' redlined such provision. *See* Declaration of Jennifer Rae Lovko, ¶2, Exh. A.

1 AUM (animal unit month) because these terms are referenced various times in the administrative
2 record, without definition. ECF 43, p. 13 n. 6, p. 14 n. 7; ECF 44-7, p. 3.

3 Exhibit E is cited once in Plaintiffs' Motion for Summary Judgment to avoid confusion
4 regarding BLM's gather operations. The exhibit clarifies that when BLM implements gather
5 operations for the Triple B Complex, these operations frequently are done jointly with the
6 Antelope Complex. ECF 43, p. 15.

7 Plaintiffs request for these documents to be judicially noticed is not done for some
8 nefarious purpose or attempt to contradict evidence, but rather, the documents merely are
9 intended to assist this Court in understanding the at-issue geography and referenced terms. For
10 these reasons, Plaintiffs ask that their Request for Judicial Notice be granted.

11 DATED: September 19, 2025,

Respectfully Submitted,

12 /s/ Jennifer Rae Lovko

13 Jessica L. Blome
14 (Cal. Bar No. 314898, pro hac vice)
15 Jennifer Rae Lovko
16 (Cal. Bar No. 208855, pro hac vice)
17 GREENFIRE LAW, PC
18 2748 Adeline Street, Suite A
19 Berkeley, CA 94703
20 (510) 900-9502
21 jblome@greenfirelaw.com
22 rlovko@greenfirelaw.com

19 /s/ Brent M. Resh

20 Brent M. Resh
21 (Nevada Bar No. 14940)
22 BRENT RESH LAW, PLLC
23 2401 La Solana Way
24 Las Vegas, NV 89102
25 (702) 781-6903
26 brent@brentreshlaw.com

27 *Attorneys for Plaintiffs*
28